

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

BRAUN GmbH,

Plaintiff,

v.

RAYOVAC CORPORATION,

Defendant.

Civil Action No. 03-CV-12428-WGY

**BRAUN GmbH'S MOTION FOR  
PARTIAL SUMMARY JUDGMENT TO CORRECT INVENTORSHIP**

Plaintiff Braun GmbH ("Braun") respectfully moves pursuant to Fed. R. Civ. P. 56(a) for entry of summary judgment for the correction of inventorship of United States Patent No. 5,649,556 (the "'556 Patent") and United States Patent No. 5,711,328 (the "'328 Patent"). In support of this motion, Braun submits the accompanying *Statement of Undisputed Material Facts In Support of Braun GmbH's Motion For Partial Summary Judgment To Correct Inventorship, Declaration of Dalila Arguez Wendlandt In Support of Braun GmbH's Motion For Partial Summary Judgment To Correct Inventorship*, and supporting memorandum.

The correction of inventorship of these two Braun patents can be decided summarily as a matter of law. "Summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c). 'Thus, summary judgment may be granted when no 'reasonable jury could return a verdict for the nonmoving party.'" Fina Oil & Chem. Co. v. Ewen, 123 F.3d 1466 , 1472 (Fed. Cir. 1997) (internal citations omitted). Undisputed facts show by clear and convincing evidence that the

inventorship of these two Braun patents should be corrected. See Hess v. Advanced Cardiovascular Sys., 106 F.3d 976, 980 (Fed. Cir. 1997).

**CONCLUSION**

WHEREFORE, summary judgment should be entered to correct inventorship of the '328 Patent.

BRAUN GmbH,

By its attorneys,

/s/ Dalila Arguez Wendlandt  
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Dated: August 22, 2005

**Certificate of Compliance with LR 7.1**

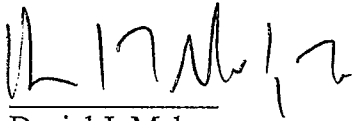
I, Dalila Arguez Wendlandt, certify that I conferred with counsel for Rayovac Corporation in a good faith effort to resolve the disputes addressed herein, and that effort failed.

**CERTIFICATE OF SERVICE**

I hereby certify that on August 22, 2005, I served a copy of the Plaintiff's Motion for Partial Summary Judgment to Correct Inventorship on:

By Fed-Ex:

James A. Shimota  
Kirkland & Ellis, LLP  
Aon Center  
200 E. Randolph Drive  
Chicago, IL 60601-6636  
Fax: (312) 861-2200

A handwritten signature in black ink, appearing to read 'D. J. Maher' with a stylized flourish at the end.

Daniel J. Maher